

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the tenth day of June two thousand and three,

Present:

Hon. Roger J. Miner,  
Hon. José A. Cabranes,  
*Circuit Judges,*  
Hon. Christopher F. Droney,\*  
*District Judge.*

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Jose Padilla,  
Donna R. Newman,  
as Next Friend of Jose Padilla,

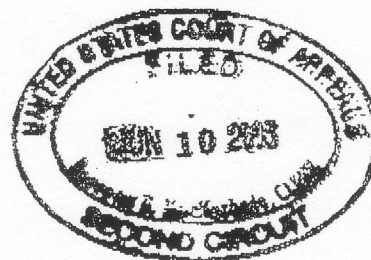
Petitioner-Appellee-Cross-Appellant,

v.

Donald Rumsfeld,

Respondent-Appellant.

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03-2235

Appellant petitions, pursuant to 28 U.S.C. § 1292(b), for leave to appeal the district court orders dated December 4, 2002 and March 11, 2003 and to expedite the interlocutory appeal if permitted. Appellee-cross-appellant petitions, pursuant to § 1292(b), for leave to appeal the portion of the district court order finding that the President had the authority to order the military to seize and detain Padilla as an unlawful combatant and that the Government need only present "some evidence" in support of its decision. Upon due consideration, it is ORDERED that the petitions are granted. Both parties have demonstrated that the district court orders involved controlling questions of law as to which there are substantial grounds for difference of opinion and that "an immediate appeal

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\*The Honorable Christopher F. Droney, of the U.S. District Court for the District of Connecticut, sitting by designation.

from the [district court] order may materially advance the ultimate termination of the litigation." See 28 U.S.C. § 1292(b). It is further ORDERED that the motion to expedite the appeal is granted. Opening briefs by both sides shall be filed no later than July 22, 2003. Response briefs by both shall be filed by no later than August 12, 2003. Reply briefs by both sides shall be filed by no later than September 1, 2003. Counsel are hereby advised that oral argument in this matter will be heard on a date set by the Court no earlier than the week of October 13, 2003.

FOR THE COURT:

Roseann B. MacKechnie, Clerk

By: William H. Heller